

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Harry Feigen	Team: Squad #13	CCRB Case #: 201708588	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/10/2017 4:00 PM	Location of Incident: Northwest corner of Buffalo Avenue and Sterling Place	Precinct: 77	18 Mo. SOL 4/10/2019	EO SOL 4/10/2019	
Date/Time CV Reported Tue, 10/10/2017 10:00 PM	CV Reported At: Precinct	How CV Reported: In-person	Date/Time Received at CCRB Tue, 10/17/2017 11:06 AM		
Complainant/Victim	Type	Home Address			
Witness(es)	Home Address				
Subject Officer(s)	Shield	TaxID	Command		
1. POM Yoan Delacruz	21906	950296	077 PCT		
2. POM David Lamarre	01841	947929	077 PCT		
Officer(s)	Allegation			Investigator Recommendation	
A.POM Yoan Delacruz	Force: PO Yoan Delacruz used physical force against § 87(2)(b)				
B.POM David Lamarre	Force: PO David Lamarre used physical force against § 87(2)(b)				

Case Summary

On October 10, 2017, § 87(2)(b) filed this complaint in-person at the 77th Precinct under IAB log number 17-3480. The case was received at the CCRB on October 18, 2017.

On October 10, 2017, at approximately 3:55 p.m., PO Yoan Delacruz and PO David Lamarre of the 77th Precinct arrested § 87(2)(b) at the northwest corner of Buffalo Avenue and Sterling Place in Brooklyn for unlawful possession of marijuana. During the arrest, the officers pulled § 87(2)(b) to the ground to place him in handcuffs (**Allegation A: Force – Physical Force, § 87(2)(g)**; **Allegation B: Force – Physical Force, § 87(2)(g)**). § 87(2)(b) was transported to the 77th Precinct stationhouse and released with a summons for § 87(2)(b).

Findings and Recommendations

Allegation A: Force – PO Yoan Delacruz used physical force against § 87(2)(b)

Allegation B: Force – PO David Lamarre used physical force against § 87(2)(b)

It is undisputed that PO Delacruz and PO Lamarre approached § 87(2)(b) at the intersection of Buffalo Avenue and Sterling Place in Brooklyn, grabbed § 87(2)(b) took him to the ground, and placed him in handcuffs.

§ 87(2)(b) stated that prior to being approached by the officers, he was walking with an unidentified individual he knows from “around the neighborhood.” § 87(2)(b) did not know the name of this person, nor could he provide any contact information for him. § 87(2)(b) denied that he was holding anything in his hands at that time, and he denied that he had any marijuana in his possession. § 87(2)(b) did not know whether the individual he was with had any marijuana on him. An unmarked police vehicle pulled up next to § 87(2)(b) and the individual he was with, and PO Delacruz and PO Lamarre exited the vehicle and approached § 87(2)(b). PO Delacruz asked § 87(2)(b) what he was doing, and § 87(2)(b) asked the officer what he was talking about. § 87(2)(b) took one step backwards away from the officers when he said this, but he denied that he attempted to run from the officers. PO Delacruz grabbed § 87(2)(b) by the back of his jacket and pushed him to the ground. § 87(2)(b) landed on his right side, causing bruises to his right hip and right shoulder. The officers then placed § 87(2)(b) in handcuffs. The other individual ran away when PO Delacruz grabbed § 87(2)(b). § 87(2)(b) denied resisting the officers physically or making any movements with his body prior to PO Delacruz throwing him to the ground (01 Board Review).

§ 87(2)(b) went to § 87(2)(b) after he was released from police custody, where he was given X-Rays with negative results, and pain medication. Photographs were taken of his reported injuries at the CCRB on October 31, 2017 (02 Board Review, 03 Board Review).

PO Delacruz and PO Lamarre both stated that they were driving in the vicinity of Buffalo Avenue and Sterling Place, and that they observed § 87(2)(b) standing on a street corner rolling what appeared to be a marijuana cigarette. The officers stopped their car directly next to § 87(2)(b) and observed him holding marijuana in plainview. There were no factors other than the observation of the marijuana in § 87(2)(b) hands which caused them to approach him. Both officers approached § 87(2)(b) announced they were police officers and told him to stop. § 87(2)(b) then turned around and ran into a mailbox that was directly behind him.

PO Delacruz stated that immediately before § 87(2)(b) turned to run, he pushed PO Delacruz on his arm and chest. PO Delacruz denied that he had attempted to grab § 87(2)(b) or had had any physical contact with him prior to § 87(2)(b) pushing him (04 Board Review). PO Lamarre stated that PO Delacruz attempted to grab § 87(2)(b) when the officers first approached, and § 87(2)(b) pushed PO Delacruz's hands off of him (05 Board Review).

After § 87(2)(b) ran into the mailbox, both officers grabbed § 87(2)(b) arms and pulled him to the ground, where they placed him in handcuffs. They denied that § 87(2)(b) resisted other than pushing PO Delacruz and then attempting to run away from them.

Once § 87(2)(b) was in handcuffs, PO Delacruz recovered the marijuana that § 87(2)(b) had been holding from the ground, as § 87(2)(b) had dropped it while the officers apprehended him. PO Delacruz conducted a field test on the marijuana, with positive results (06 Board Review), and vouchered the marijuana (07 Board Review).

Given § 87(2)(b) statement that he took a step back when the officers approached him, and that the other individual he was with ran away when the officers approached, the investigation credited the officers' accounts that § 87(2)(b) did attempt to run from the officers before they pulled him to the ground and placed him in handcuffs. § 87(2)(b) also presented credibility issues, as he denied that he had any marijuana on him or that the officers recovered any marijuana, despite marijuana being tested and vouchered by PO Delacruz in connection with his arrest.

As per Patrol Guide Procedure 221-01, an officer may use reasonable force to apprehend an individual who is attempting to evade arrest (08 Board Review).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is § 87(2)(b) first CCRB complaint.

- PO Delacruz has been a member of service for six years. There are no substantiated allegations on his record. He has five prior stop allegations on his record, across four cases. One allegation has been closed as “unsubstantiated,” one as “exonerated,” two as “victim unavailable,” and one as “victim uncooperative.”
- PO Lamarre has been a member of service for eight years. In case 201604671, a vehicle search was substantiated against him. There are five verbal discourtesy allegations on his record, across five cases. Two have been closed as “unsubstantiated,” two as “complainant unavailable,” and one as “complainant uncooperative.”

Mediation, Civil, and Criminal Histories

- This case was not suitable for mediation, due to § 87(2)(b) injury.
- A notice of claim request was submitted to the NYC Comptroller’s Office on December 7, 2017. It will be added to the case file upon its receipt (09 Board Review).
- § 87(2)(b) does not have any prior criminal convictions (10 Board Review).

Squad No.: _____

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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